

From the INTERNATIONAL SEARCHING AUTHORITY

PCT

To:
COOLEY GODWARD KRONISH
Attn. Ford, Timothy D.
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ETATS-UNIS D'AMERIQUE

INVITATION TO PAY ADDITIONAL FEES

(PCT Article 17(3)(a) and Rule 40.1)

REGISTERED MAIL

Date of mailing (day/month/year)	26/03/2007
PAYMENT DUE	within ONE MONTH from the above date of mailing
International filing date (day/month/year)	16/01/2007

Applicant's or agent's file reference

BSCI02100WO

International application No.

PCT/US2007/060581

Applicant

BOSTON SCIENTIFIC SCIMED, INC.

1. This International Searching Authority

- (i) considers that there are 7 (number of) inventions claimed in the international application covered by the claims indicated ~~below~~ on the extra sheet:

and it considers that the international application does not comply with the requirements of unity of invention (Rules 13.1, 13.2 and 13.3) for the reasons indicated ~~below~~ on the extra sheet:

- (ii) ☒ has carried out a partial international search (see Annex) ☐ will establish the international search report on those parts of the international application which relate to the invention first mentioned in claims Nos.:

see annex

- (iii) will establish the international search report on the other parts of the international application only if, and to the extent to which, additional fees are paid

2. The applicant is hereby invited, within the time limit indicated above, to pay the amount indicated below:

EUR 1.615,00 x 6 = EUR 9.690
Fee per additional invention number of additional inventions total amount of additional fees

Or, _____ x _____ = _____

The applicant is informed that, according to Rule 40.2(c), the payment of any additional fee may be made under protest, i.e., a reasoned statement to the effect that the international application complies with the requirement of unity of invention or that the amount of the required additional fee is excessive.

3. ☐ Claim(s) Nos. _____ have been found to be unsearchable under Article 17(2)(b) because of defects under Article 17(2)(a) and therefore have not been included with any invention.

Name and mailing address of the International Searching Authority
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Authorized officer

Vera Schertl

RECEIVED

APR 02 2007

Form PCT/ISA/206 (April 2005)

ENTERED 4.2.07
DUE: Search Fees
DUE: 4.26.07

COOLEY GODWARD KRONISH LLP

This International Searching Authority found multiple (groups of) inventions in this international application, as follows:

1. claims: 1, 2, 3, 15-20, 21, 22

A stent comprising a drug

2. claims: 1, 4-6, 21, 23

A patch comprising a drug

3. claims: 1, 7, 8, 21, 24

A microsphere comprising a drug

4. claims: 1, 9, 10, 21, 25

A solidifying spray solution comprising a drug

5. claims: 1, 11, 21, 26

An injectable gel comprising a drug

6. claims: 1, 12, 13, 21, 27

An injectable paste comprising a drug

7. claims: 1, 14, 21, 28

An implantable plug comprising a drug

This Authority considers that there are 7 inventions covered by the claims indicated as follows:

- I: Claims 1, 2, 3, 15-20, 21, 22 directed to a stent comprising a drug
II: Claims 1, 4-6, 21, 23 directed to a patch comprising a drug
II: Claims 1, 7, 8, 21, 24 directed to a microsphere comprising a drug
IV: Claims 1, 9, 10, 21, 25 directed to a solidifying spray solution comprising a drug
V: Claims 1, 11, 21, 26 directed to an injectable gel comprising a drug
VI: Claims 1, 12, 13, 21, 27 directed to an injectable paste comprising a drug
VII: Claims 1, 14, 21, 28 directed to an implantable plug comprising a drug

The reasons for which the inventions are not so linked as to form a single general inventive concept, as required by Rule 13.1 PCT, are as follows:

The technical features of the independent claims 1 and 21 are a carrier and an agent formulated to control inflammation provided on the carrier. Claims 1 and 21 are not novel since the features therein disclosed are already known from the prior art (e.g. WO-A-01/67991). Moreover, the concept of providing a drug on a carrier to control inflammation in order to improve the healing process is also already known from the prior art (e.g. WO-A-01/67991). Therefore, lack of unity a posteriori arises since the above groups of claims are neither linked by novel and inventive features nor by a common inventive concept. In conclusion, the groups of claims define 7 different inventions.

The application, hence does not meet the requirements of unity of invention as defined in Rules 13.1 and 13.2 PCT.

1. The present communication is an Annex to the invitation to pay additional fees (Form PCT/ISA/206). It shows the results of the international search established on the parts of the international application which relate to the invention first mentioned in claims Nos.:
- see 'Invitation to pay additional fees'
2. This communication is not the international search report which will be established according to Article 18 and Rule 43.
3. If the applicant does not pay any additional search fees, the information appearing in this communication will be considered as the result of the international search and will be included as such in the international search report.
4. If the applicant pays additional fees, the international search report will contain both the information appearing in this communication and the results of the international search on other parts of the international application for which such fees will have been paid.

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category °	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	WO 01/67991 A (YANG JUN [US]) 20 September 2001 (2001-09-20) page 4, line 4 - page 10, line 6 -----	1-3, 15-22
X	EP 1 518 517 A (SUN BIOMEDICAL LTD [BM]) 30 March 2005 (2005-03-30) the whole document -----	1-3, 15-22
X	EP 1 600 125 A (BARD INC C R [US]) 30 November 2005 (2005-11-30) claims; figures -----	1-3, 15-22
X	WO 99/40874 A (STEINKE THOMAS A [US]) 19 August 1999 (1999-08-19) abstract -----	1-3, 15-22
X	EP 1 600 122 A (MEDTRONIC VASCULAR INC [US]) 30 November 2005 (2005-11-30) claims; figures -----	1-3, 15-22

☐

Further documents are listed in the continuation of box C.

☒

Patent family members are listed in annex.

° Special categories of cited documents :

- *A* document defining the general state of the art which is not considered to be of particular relevance
- *E* earlier document but published on or after the international filing date
- *L* document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- *O* document referring to an oral disclosure, use, exhibition or other means
- *P* document published prior to the international filing date but later than the priority date claimed

- *T* later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
- *X* document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
- *Y* document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.
- *&* document member of the same patent family

Patent Family Annex

Information on patent family members

International Application No

PCT/US2007/060581

Patent document cited in search report		Publication date	Patent family member(s)	Publication date
WO 0167991	A	20-09-2001	AU 4356701 A	24-09-2001
			US 6379382 B1	30-04-2002
			US 2002062147 A1	23-05-2002
<hr/>				
EP 1518517	A	30-03-2005	NONE	
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EP 1600125	A	30-11-2005	NONE	
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WO 9940874	A	19-08-1999	AT 314023 T	15-01-2006
			AU 754566 B2	21-11-2002
			AU 2239499 A	30-08-1999
			CA 2322050 A1	19-08-1999
			CN 1292668 A	25-04-2001
			DE 69929175 T2	22-06-2006
			EP 1056414 A1	06-12-2000
			JP 3749437 B2	01-03-2006
			JP 2002502665 T	29-01-2002
			RU 2217098 C2	27-11-2003
			US 6033436 A	07-03-2000
			US 6224626 B1	01-05-2001
<hr/>				
EP 1600122	A	30-11-2005	NONE	
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Important Information

General

- The **claims cannot be changed** at this point in the procedure, the transmitted report is **not** the international search report (see Art. 19 PCT).
- Any payment has to be made **directly** to this ISA, payments to other entities will not be accepted.
- In case of a **total of more than 2 inventions** found: when paying please **specify exactly** which claims should be searched.
- An **extension of the set time limit** cannot be granted.

Payment by cheque:

- The **date to be considered as the date on which the payment is made** is the **date of receipt of the cheque at the EPO**, provided that the cheque is **met**.
- Copies of cheques sent by fax or by post are not considered to be a valid payment.
- The fees shall be paid in euro, no equivalents in other currencies.

Payment or transfer to a bank account:

- The **date to be considered as the date on which the payment is made** is the date on which the amount of the payment or the transfer is **actually entered** in a bank account or Giro account held by the EPO.
- The fees shall be paid in euro, no equivalents in other currencies.

Payment by deposit account:

- The **date to be considered as the date on which the payment is made** is the date that the **authorisation** to deduct fees from the deposit account is **received at the EPO**.

***Note:** If you don't have a deposit account with the EPO yourself you might want to consider using the account of an associate as a safe and quick way of paying.*

Payment by credit card:

- Payments by **credit card** are **not possible**.

Payments under protest according to Rule 40 PCT:

- The protest will **not be accepted without a payment** of additional fees.
- The protest has to be **accompanied by a technical reasoning**.

New amounts for procedural fees as from 01/04/2006 (see OJ EPO 2006,8)!

- additional search fee: EUR 1615,00
- protest fee: EUR 1065,00

Important information

Rule 40 PCT has been amended as of 1 April 2005. For general information on the protest procedure at ISA/EP, please refer to OJ EPO 3/2005, pages 226/227.

1. As in the past the payment of any additional fee may be made under protest i.e. accompanied by a reasoned statement to the effect that the international application complies with the requirement of unity of invention or that the amount of the required additional fees is excessive according to amended Rule 40.2(c) PCT.
2. After due receipt of the payment of the additional search fee(s) under protest (i.e. within one month from the date of the invitation), the EPO will, prior to examination of the protest by the Board of Appeal, subject the invitation to pay additional fees to an internal review. The result of this review will be communicated to the applicant.
3. The fee for examination of the protest (Rule 40.2(e) PCT) is payable within one month from the date of the invitation to pay additional fees (Rule 40.1(iii) PCT). However, in order to allow the applicant to consider the result of the internal review, the applicant may pay the protest fee within one month from the date of notification of the result of the review.
4. Should the applicant wish to maintain his protest in light of the review he must pay the protest fee within one month from the date of notification of the result of the internal review, in which case the protest will be referred to the Board of Appeal. Should the Board of Appeal find that the protest was entirely justified, the protest fee shall be refunded.
5. In the event of the applicant already having paid the protest fee before notification of the result of the review, the protest will be referred to the Board of Appeal **unless** the result of the internal review was that the protest was **entirely** justified **or** the applicant indicates within one month from the date of notification of the result of the review that he does not wish to continue the protest. In both cases, the protest fee will be refunded.

Account Details

Accounts of the European Patent Organisation

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